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SHERILYN BURNETT YOUNG
Attorney at Law

April 30, 2004

Waste Management Council
c/o DES Waste Management Division
29 Hazen Drive
Concord, New Hampshire 03301

RECEIVED

APR 30 2004

**Re: Collins & Aikman
Cardinal Landfill Site
Appeal of Revised DES # GWP-198401083-F-001**

04- 12 WMC

Dear Council Members:

On behalf of Collins & Aikman Automotive Interiors, Inc ("C&A"), we write to respectfully appeal the revised Groundwater Management Permit #GWP-198401083-FOCUS-001 for the Cardinal Landfill Site that was reissued on 1 April 2004 ("April 2004 GMP"). The April 2004 GMP combines two distinct sampling programs: (1) the monitoring program undertaken pursuant to a Consent Decree between C&A and the State of New Hampshire Department of Environmental Services ("DES") to monitor the general groundwater conditions of the Cardinal Landfill Site (the "Site"); and (2) the monitoring program undertaken pursuant to an agreement between C&A and the DES to allow C&A to demonstrate the effectiveness of an innovative remedial system for the Site, known as the Enhanced In Situ Bioremediation ("EISB") overburden groundwater; ("OB-3") and bedrock groundwater ("BR-1a") remedial system.

The Consent Decree entered into by C&A and the DES, #02-E-0202, approved by the Merrimack County Superior Court on November 14, 2002 (the "2002 Consent Decree") provides in Paragraph 9(e) as follows:

(e) TAI [now C&A] shall continue to implement the June 12, 2001 Groundwater Management Permit Number GWP-198401083-F-001 issued by DES to monitor the effects of past discharges of volatile organic compounds at the Site and as amended by DES's letter of August 6, 2001 to TAI. TAI shall maintain a water quality monitoring program and submit monitoring results to DES's Groundwater Management Coordinator no later than forty-five (45) days after sampling. Samples shall be taken from on-site monitoring wells and surface water sampling points as shown on the site plan dated March 15, 2001 and submitted with the Groundwater Management Permit application. Summaries of water quality shall be submitted annually to DES's Waste Management

C O U N S E L L O R S A T L A W

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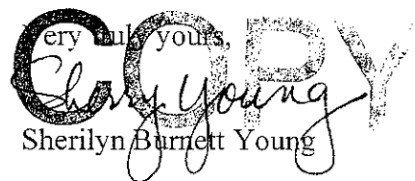
Division. The Annual Report shall include a tabular summary of the performance of the RAP and any recommendations for modifications to the RAP. TAI shall maintain compliance with the temporary Groundwater Management Zone ("GMZ") as shown on Figure 2 of TAI's Groundwater Management Permit application filed with DES and dated June 12, 2001.

...

Recommendations to modify the GMP were presented by C&A in its GMP Annual Report for year 2003, submitted to the NHDES in January 2004 (see pp. 16-17 of the GMP 2003 Annual Report). However, the DES substantially modified the GMP to include monitoring provisions related to the innovative remedial system as well. The OB-3/BR-1a demonstration program is a short (one-year) duration intensive monitoring program designed to assess the long-term feasibility of the OB-3/BR-1a groundwater remedy, as outlined under a 19 August 2003 agreement between the parties, with final remedy selection scheduled to occur in September 2005. The OB-3/BR-1a monitoring program is dynamic, and should be developed to maintain flexibility to respond to changing field conditions and other project needs. The GMP monitoring points are long-term sampling locations, to be sampled on an annual to semi-annual basis over a multi-year duration.

Modifications to the Consent Decree may only be made upon written agreement of the parties (Consent Decree Section XXX, para. 67). In addition, Env-Wm 1403.24(d) specifies the procedures that NHDES must follow to revise a GMP, which include written notification and explanation of the actions the NHDES proposes to take and the reasons for the proposed action. These requirements were not complied with by DES prior to it issuance of the April 2004 GMP.

Accordingly, we appeal the combination of the two monitoring programs into the April 2004 GMP, and request that the April 2004 GMP contain only the long-term monitoring requirements as contemplated by the Consent Decree, and that the OB-3/BR-1a monitoring program be implemented in accordance with the separate agreements entered into by the parties. The specific requests for modifications to the GMP are set forth in the attached letter from Haley & Aldrich dated April 30, 2004, incorporated herein by reference.

Very truly yours,

Sherilyn Burnett Young

cc: Jim Thomas, C&A
Jeff Klaiber and Boyd Smith, H&A
Susan Willoughby, DES
Attorney Richard Head, NHAGO

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30 April 2004
File No. 60405-056

Rath Young & Pignatelli, P.A.
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Concord, New Hampshire 03302-1500

Attention: Sherilyn B. Young, Esquire

Subject: Response to 1 April 2004 Groundwater Management Permit
DES # GWP-198401083-F-001
Cardinal Landfill
Farmington, New Hampshire

Dear Attorney Young:

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The purpose of this letter is to provide technical information in support of the appeal of the re-issuance by the New Hampshire Department of Environmental Services (NHDES) of the Groundwater Management Permit for the Cardinal Landfill Site, re-issued on 1 April 2004 (April 2004 GMP).

Recommendations to modify the GMP were presented in the GMP Annual Report for year 2003, submitted to the NHDES in January 2004 (see pp. 16-17 of the GMP 2003 Annual Report). These recommendations superseded those presented in a 10 October 2003 Water Quality Monitoring Program memorandum submitted to NHDES (see reference in following paragraph).

The scope of the OB-3/BR-1a water quality monitoring program was developed in written submittals to and during discussions with NHDES, summarized as follows:

- Remedial Action Plan (RAP), February 2003.
- BR-1a Design Report, August 2003.
- 18 September 2003 Meeting with NHDES.
- 10 October 2003 Water Quality Monitoring Program Memorandum to NHDES.
- 8 January 2004 Partial Response from NHDES to 10 October 2003 Memorandum.

- 19 February 2004 Response to NHDES' 8 January 2004 Partial Response.
- 20 February 2004 Telephone Conference with NHDES.
- 10 March 2004 Water Quality Monitoring Memorandum to NHDES.

As indicated by this sequence of communications, the OB-3/BR-1a monitoring program is dynamic, and should be developed to maintain flexibility to respond to changing field conditions and other project needs.

RECOMMENDED REVISIONS AND CLARIFICATIONS TO SAMPLING PROGRAMS

We recommend removing the OB-3/BR-1a sampling program from the GMP for the following reasons:

- The OB-3/BR-1a demonstration is a short-duration, high frequency sampling program, as outlined under a 19 August 2003 amendment to the November 2002 Consent Decree. The remaining GMP monitoring points are sampled on an annual to semi-annual basis over a longer (likely multi-year) duration. The flexibility to modify the OB-3/BR-1a sampling program during the course of the demonstration period is highly desirable to allow us to react to conditions as they arise in the field. Changes to the OB-3/BR-1a sampling program under current conditions must be performed in accordance with the 2002 Consent Decree.
- The NHDES has indicated that the GMP will be revised again after 15 March 2005, following completion of the OB-3/BR-1a demonstration period. It has been our understanding during discussions with NHDES that the GMP would be revised following selection of the final remedy, currently scheduled for September 2005 under the 19 August 2003 amendments to the November 2002 Consent Decree.

OB-3/BR-1a Demonstration Monitoring

In general, we concur with the OB-3/BR-1a Demonstration Monitoring program scope as outlined in the April 2004 GMP, which is generally consistent with the scope developed in the documents referenced above. However, we propose the following modifications and clarifications:

- Sampling schedules for Treatment Zone Wells shown on Table 1 of the April 2004 GMP (monthly) conflict with Note 4 of this Table (alternate months). We assume that monthly water level monitoring and groundwater quality sampling of Treatment Zone wells is required. This assumption should be confirmed by NHDES.

TABLE
A.1.1

- Three wells (MW603S/D/BR-S) are located in the Treatment Zone but are listed as GMP wells. These wells have previously been designated as OB-3/BR-1a demonstration monitoring wells, with the attendant monthly sampling frequencies, parameters and 12-month (March 2004 through March 2005) durations.
- We assume that NHDES approves the reporting formats presented at the 18 September 2003 meeting and submitted in a 10 October 2003 water quality sampling memorandum. Data submitted to NHDES as part of required OB-3/BR-1a reporting will be presented in these previously agreed-on formats.

GMP Monitoring

Figure 1 (attached) shows proposed GMP monitoring locations, including the following proposed revisions and clarifications:

- Ten (10) GMP wells were designated for monthly/bi-monthly sampling (MW402S/D/R, MW603S/D/BR-S (see above comments), MW700DR-S/I/D, and MW809). Groundwater elevations will be measured at these wells on a monthly basis through the EISB demonstration period (March 2005). These wells should be sampled for chemical analysis only semi-annually (May and November), and the April 2004 GMP should be amended to reflect this change.
- Sampling and analysis for arsenic requires the following modifications and clarifications:
 - As discussed with NHDES and based on review of historic data, the majority of arsenic exists in the dissolved phase. Therefore, total arsenic measurements represent the dissolved fraction, as well as provide a conservative (high) measure of the presence of arsenic. We recommend using only total arsenic analysis (i.e., do not field-filter samples) as part of site monitoring for arsenic.
 - Footnote 1 of NHDES Table I indicates that "arsenic sampling shall be semi-annual at any of the wells designated". Eleven (MW305-, MW306-, MW702, and MW704-series) bedrock wells are scheduled for annual or bi-annual sampling only. Following a 20 February 2004 telephone call with the NHDES and our 10 March 2004 response to partial NHDES comments regarding the 10 October 2003 water quality sampling program, the NHDES verbally indicated that using Permeable Diffusion Bag (PDB) methods is acceptable for these eleven bedrock monitoring locations. PDB samplers do not detect arsenic.

In addition, data contained in the Phase I and II Bedrock Investigation Report (Haley & Aldrich, January 2003, Table V) indicates that arsenic was only present at or below either background concentrations or Ambient Groundwater Quality Standards (AGQS) at these eleven bedrock monitoring locations.

HALEY & ALDRICH
INCORPORATED

The agreement by NHDES to use PDB sampling methods is not reflected in the April 2004 GMP, which should be amended accordingly. We intend to collect groundwater samples from the above wells using PDB methods, and to analyze the samples for VOCs only, beginning November 2004, with future monitoring on a similar schedule as presented in the April 2004 GMP.


- Wells sampled on a monthly, bi-monthly or semi-annual frequency will (if sampled for arsenic) be sampled for arsenic on a semi-annual basis during regularly scheduled sampling events. We will endeavor to sample OB-3/BR-1a and other GMP wells for arsenic on a similar schedule, as applicable.
- The April 2004 GMP identifies ten wells for sampling (MW202, MW305S, MW401, MW402D/S/R, MW901, Robinson-I/D, and SW111R) that have two to six consecutive sampling rounds with arsenic concentrations at or below background concentrations or AGQS. As recommended in our January 2004 GMP Annual Report, arsenic should no longer be monitored at these locations.
- Sampling and analysis for VOCs was proposed based on historically detected constituents. While we generally agree with NHDES' revisions in the April 2004 GMP, we propose modifying NHDES' requirements as follows:
 - Three overburden wells (MW305D and MW306S/D) and one shallow bedrock well (MW306SR) should be analyzed using EPA Method 8260B (not EPA Method 8021B as proposed by NHDES) to monitor for concentrations of aromatic and ketone compounds historically detected at these locations.
 - Three deep SW111-series bedrock wells (SW111DR-S/1/D) should be analyzed using EPA Method 8021B (not EPA Method 8260B as proposed by NHDES) as only chlorinated VOCs have been historically detected at these locations above AGQS (excepting the presence of acetone from bedrock well construction).
- The April 2004 GMP requires semi-annual sampling of seven wells (MW3A, MW202, MW304S/D, MW305S, MW402D, and MW901) that have a minimum of two consecutive rounds of groundwater quality sampling that met AGQS or contained no detected VOCs (see pg. 16 of the January 2004 GMP Annual Report). These wells should be sampled no more frequently than annually (November). The April 2004 GMP should modify the sampling frequencies at these locations (and others with similar trends).
- The Robinson bedrock wells (Robinson-S/I/D) are incorrectly identified as being "beyond the Interim GMZ" (April 2004 GMP, pg. 3). These three wells are located within the Interim GMZ. The April 2004 GMP should be corrected.

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We are planning on performing the May 2004 OB-3/BR-1a sampling the week of 15 May 2004, and performing the GMP sampling the week of 22 May 2004. We intend to implement the approach outlined in this letter during these and future OB-3/BR-1a and GMP sampling rounds.

Please do not hesitate to contact either of us if you should have any questions.

Sincerely yours,
BOYD P. SMITH, P.G.


Boyd P. Smith, P.G.
Senior Hydrogeologist


JEFFREY A. KLAIBER, P.E.
Senior Vice President

Attachment

Figure 1 – Proposed GMP Monitoring Locations

c: Collins & Aikman Automotive Interiors, Inc.; Attn: Mr. James Thomas, CIH
GeoSyntec Consultants; Attn: Evan Cox, MSc, Carl Elder, PhD

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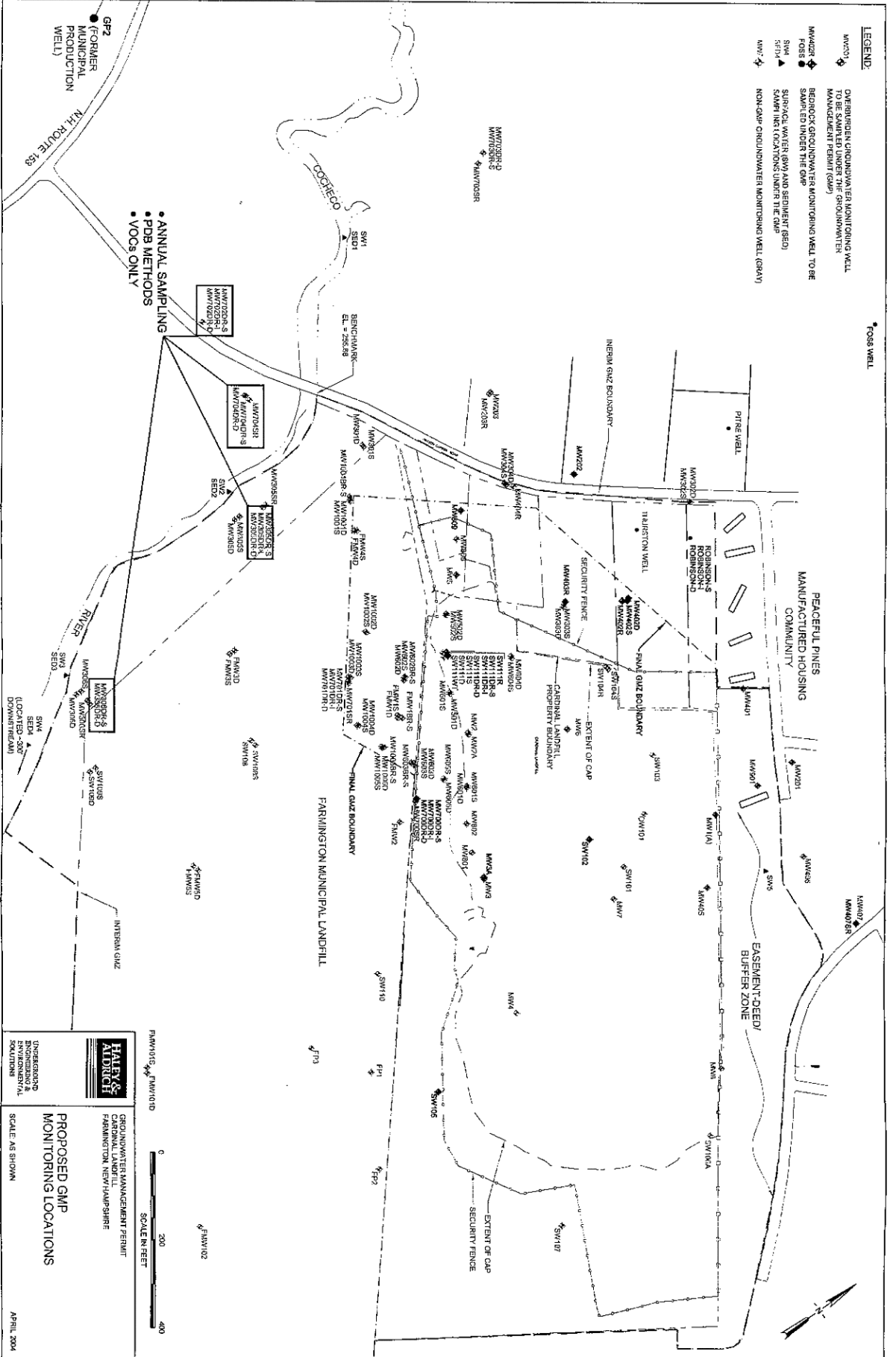


FIGURE 1